SENATE BILL No. 243

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-21-4-1; IC 32-28-3-5.

Synopsis: Mechanic's liens. Provides that the mortgage of a lender does not have priority over a mechanic's lien.

Effective: July 1, 2010.

Merritt

January 11, 2010, read first time and referred to Committee on Insurance and Financial Institutions.





Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

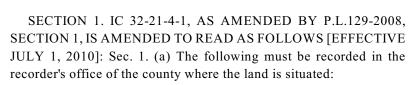
Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 243

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:



- (1) A conveyance or mortgage of land or of any interest in land.
- (2) A lease for more than three (3) years.
- (b) Unless a statute specifically provides otherwise, a conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.
- (c) This subsection applies only to a mortgage. This subsection applies regardless of when a mortgage was recorded. If:
 - (1) an instrument referred to in subsection (a) is recorded; and
- (2) the instrument does not comply with the:
 - (A) requirements of:



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1	(i) IC 32-21-2-3; or
2	(ii) IC 32-21-2-7; or
3	(B) technical requirements of IC 36-2-11-16(c);
4	the instrument is validly recorded and provides constructive notice of
5	the contents of the instrument as of the date of filing.
6	SECTION 2. IC 32-28-3-5 IS AMENDED TO READ AS
7	FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) As used in this
8	section, "lender" refers to:
9	(1) an individual;
.0	(2) a supervised financial organization (as defined in
1	IC 24-4.5-1-301);
2	(3) an insurance company or a pension fund; or
3	(4) any other entity that has the authority to make loans.
4	(b) The recorder shall record the statement and notice of intention
.5	to hold a lien when presented under section 3 of this chapter in the
6	miscellaneous record book. The recorder shall charge a fee for
7	recording the statement and notice in accordance with IC 36-2-7-10.
.8	When the statement and notice of intention to hold a lien is recorded,
9	the lien is created. The recorded lien relates back to the date the
20	mechanic or other person began to perform the labor or furnish the
2.1	materials or machinery. Except as provided in subsections (c) and (d),
22	a lien created under this chapter has priority over a lien created after it.
23	(c) The lien of a mechanic or materialman does not have priority
24	over the lien of another mechanic or materialman.
2.5	(d) The mortgage of a lender has does not have priority over all
26	liens created under this chapter that are recorded after the date the
27	mortgage was recorded, to the extent of the funds actually owed to the
28	lender for the specific project to which the lien rights relate. This
29	subsection does not apply to a lien that relates to a construction
0	contract for the development, construction, alteration, or repair of the
31	following:
32	(1) A Class 2 structure (as defined in IC 22-12-1-5).
33	(2) An improvement on the same real estate auxiliary to a Class
34	2 structure (as defined in IC 22-12-1-5).
55	(3) Property that is:
66	(A) owned, operated, managed, or controlled by:
57	(i) a public utility (as defined in IC 8-1-2-1);
8	(ii) a municipally owned utility (as defined in IC 8-1-2-1);
19	(iii) a joint agency (as defined in IC 8-1-2.2-2);
10	(iv) a rural electric membership corporation formed under
1	IC 8-1-13-4;
12	(v) a rural telephone cooperative corporation formed under



1	IC 8-1-17; or	
2	(vi) a not-for-profit utility (as defined in IC 8-1-2-125);	
3	regulated under IC 8; and	
4	(B) intended to be used and useful for the production,	
5	transmission, delivery, or furnishing of heat, light, water,	
6	telecommunications services, or power to the public.	
7	the lien of a mechanic or materialman.	
8	SECTION 3. [EFFECTIVE JULY 1, 2010] IC 32-28-3-5(d), as	
9	amended by this act, applies only to a mortgage that is entered into	
10	or renewed after June 30, 2010.	
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